

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 04079**, from
AG Agricultural District to R-3 Residential District
and R-4 Residential District, requested by
Jensen Park, LLC, on property generally located
at South 84th Street and Yankee Hill Road.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 02/15/06
Administrative Action: 02/15/06

STAFF RECOMMENDATION: Approval

RECOMMENDATION: Approval (5-0: Esseks,
Sunderman, Carroll, Taylor and Carlson voting
'yes'; Krieser, Strand and Larson absent).

ASSOCIATED REQUESTS: Annexation
Agreement (06R-186) and Annexation No. 04012
(06-160).

FINDINGS OF FACT:

1. This proposed change of zone request was heard in conjunction with the associated Annexation No. 04012 and Jensen Park Estates Preliminary Plat No. 04030.
2. The staff recommendation to approve the change of zone request is based upon the "*Analysis*" as set forth on p.4, concluding that the proposed annexation and change of zone are associated with the preliminary plat of Jensen Park Estates. Annexation is required for the development to connect to City water and sewer, and the change of zone is necessary to allow the density proposed with the plat. Provided the owner enters into an annexation agreement with the City, the annexation and zoning are consistent with the Comprehensive Plan.
3. The applicant's testimony is found on p.6-7 and 8. The issues raised by the applicant related to the conditions of approval on the associated preliminary plat.
4. There was no testimony in opposition.
5. On February 15, 2006, the Planning Commission agreed with the staff recommendation and voted 5-0 to recommend approval of the change of zone request (Krieser, Strand and Larson absent).
6. On February 15, 2006, the Planning Commission also voted 5-0 to recommend conditional approval of the associated Jensen Park Estates Preliminary Plat, with the amendments requested by the applicant, including a request to waive a street connection to the north, and adopted Resolution No. PC-00980 accordingly. Subsequently, the City Council reviewed the waiver request and approved it on March 6, 2006.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: September 5, 2006

REVIEWED BY: _____

DATE: September 5, 2006

REFERENCE NUMBER: FS\CC\2006\CZ.04079+

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for February 15, 2006 PLANNING COMMISSION MEETING

This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

PROJECT #: Annexation #04012
Change of Zone #04079 - AG to R-3 and R-4

PROPOSAL: To annex approximately 66 acres of land and change the zoning from AG to R-3 and R-4 in association with the preliminary plat of Jensen Park Estates.

LOCATION: South 84th Street and Yankee Hill Road.

LAND AREA: Approximately 66 acres.

CONCLUSION: These requests are associated with the preliminary plat of Jensen Park Estates. Annexation is required for the development to connect to City water and sewer, and the change of zone is necessary to allow the density proposed with the plat. Provided the owner enters into an annexation agreement with the City, the annexation and zoning are consistent with the Comprehensive Plan.

RECOMMENDATION:

ANN#04012
CZ#04075

Conditional Approval
Approval

GENERAL INFORMATION:

LEGAL DESCRIPTIONS:

ANN#04012 - Lots 104, 105, 106, 108, 110, and 111 I.T.'s, the adjacent portions of railroad right-of-way, and adjacent portions of Yankee Hill Road and South 84th Street right-of-way, located in the SW 1/4 of Section 23-9-7, Lancaster County, Nebraska, generally located at S. 84th Street and Yankee Hill Road.

CZ#04079 - See attached legal descriptions.

EXISTING ZONING: AG - Agriculture **PROPOSED ZONING:** R-3 and R-4 Residential

EXISTING LAND USE: Residential, Vacant

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-5
South:	Agriculture	P, AG
East:	Commercial	B-5, H-4
West:	Residential	AGR

ASSOCIATED APPLICATIONS:

PP#04030 - The preliminary plat of Jensen Park Estates to create 151 single-family residential lots.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F23 - This site is designated as urban residential land use in the Land Use Plan.

Page F27 - Urban Growth Tiers - This site is in Tier 1, Priority Area A of the City's Future Service Limit.

Page F28 - The Comprehensive Plan includes three tiers of growth for the City of Lincoln. Tier I reflects the "Future Service Limit," where urban services and inclusion in the city limits are anticipated by 2025. Infrastructure planning, especially for water and sanitary sewer facilities, can reach beyond the 25 year time horizon to 50 years and further. Tier I defines the City of Lincoln's near term growth area – generally a 40 square mile area which could reasonably expect urban services within the next twenty five year period. Land within this area should remain generally in the present use in order to permit future urbanization by the City.

Page 154 - Annexation Policy - Annexation policy is a potentially powerful means for achieving many of the goals embodied in the Plan's Vision. The annexation policies of the City of Lincoln include but are not limited to the following:

The provision of municipal services shall coincide with the jurisdictional boundaries of the City – in short, it is not the intent of the City of Lincoln to extend utility services (most notably, but not necessarily limited to, water and sanitary water services) beyond the corporate limits of the City.

The extension of water and sanitary sewer services shall be predicated upon annexation of the area by the City. City annexation shall occur before any property is provided with water, sanitary sewer, or other potential City services.

Land which is remote or otherwise removed from the limits of the City of Lincoln will not be annexed; land which is contiguous to the City and generally urban in character may be annexed; and land which is engulfed by the City should be annexed.

Annexation generally implies the opportunity to access all City services. Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (e.g., water, sanitary sewer), and may include specific or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area.

Page F156 - Subarea Planning - By reference the Southeast Lincoln/Highway 2 Subarea Plan is included in the Comprehensive Plan.

Southeast Lincoln/Highway 2 Subarea Plan:

UTILITIES: Streets - The area is bounded by South 84th Street to the west, and by Yankee Hill Road on the south. Yankee Hill Road and South 84th Street are both classified as principal arterial streets. South 84th Street is a paved county road, while Yankee Hill Road has a gravel surface. There is no funding in the current six-year CIP to improve these streets adjacent to the project.

Sanitary Sewer - Sewer is not yet available to this site. This project is dependent upon completion of the Beal's Slough relief sewer Phases I and II, and the extension of the Upper Beal's Slough trunk sewer to South 70th Street and Yankee Hill Road, and then from South 70th Street to South 84th Street. Funding for Phases I and II is shown in the Capital Improvements Program (CIP) for years 2005-2009. The Upper Beal's Slough trunk sewer project is currently under design, and may be substantially completed by October, 2006.

Water - There is a 24" water main in South 84th Street to serve this site. The main must be extended to the intersection of South 84th Street and Yankee Hill Road, and being an impact fee facility the extension is eligible for reimbursement.

ANALYSIS:

1. These requests are associated with the preliminary plat of Jensen Park Estates, and must be approved prior to the plat.
2. The total area of the annexation request is approximately 66 acres. This includes the area (42.97 acres) of Jensen Park Estates and several adjacent lots. Areas beyond the plat include the 3.8 acre L.E.S. substation site adjacent to the east, the 1.5 acre parcel with a house at the intersection of South 84th Street and Pine Lake Road, the 5.5 acre parcel between the area of the plat and the railroad to the north, and adjacent rights-of-way for the railroad, South 84th Street, and Yankee Hill Road. The commercial development to the north (Appian Way Phase II) has been annexed, and The Woodlands PUD is proposed to be annexed southwest of South 84th and Yankee Hill Road including a 40-acre portion of the City-owned land south of Yankee Hill Road (see attached agenda map from The Woodlands at Yankee Hill proposed annexation).
3. The adjacent lots were included because upon annexation of Jensen Park Estates they meet the conditions of the Annexation Policy of the Comprehensive Plan. That is, city utilities would be available to the lots, they are considered urban in character, and they would be engulfed by the city limit.
4. The proposed change of zone complies with the urban residential designation of the Comprehensive Plan. The associated change of zone request from AG to R-3 and R-4 accommodates the density shown on the preliminary plat. The R-4 component is included to accommodate the reduced width of those lots adjacent to Yankee Hill Road designated for attached single-family units.
5. The developer will be required to enter into an annexation agreement with the City for the area of Jensen Park Estates. It will address financial responsibility for required off-site

improvements that must be constructed to serve this development in advance of public funding becoming available.

Prepared by:

Brian Will
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Planner
February 2, 2006

APPLICANT: Jensen Park, LLC
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Lincoln, NE 68516 402.434.5650

OWNER: Douglas Blanc c/o Alan Baade
RR#8
Lincoln, NE 68516 402.423.4932

CONTACT: Jason Thiellen
EDC
2200 Fletcher Ave.
Lincoln, NE 68521 402.438.4014

**ANNEXATION NO. 04012;
CHANGE OF ZONE NO. 04079
and
PRELIMINARY PLAT NO. 04030,
JENSEN PARK ESTATES**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 15, 2006

Members present: Esseks, Sunderman, Carroll, Taylor and Carlson; Krieser, Strand and Larson absent.

Staff recommendation: Approval of the annexation, subject to an Annexation Agreement; approval of the change of zone; and conditional approval of the preliminary plat.

Ex Parte Communications: None

Proponents

1. Jason Thiellen of Engineering Design Consultants, appeared on behalf of **Jensen Park LLC**, the applicant for this preliminary plat of 145 attached single family lots together with a request for annexation and change of zone from AG to R-3 and R-5 Residential.

Thiellen submitted a request to amend the conditions of approval as follows:

- 1.1.1 ~~Show a street connection to Lot 111, unless the subdivider's waiver request is approved by the City Council.~~ We are asking for a recommendation for approval of the waiver.
- 1.1.5 ~~Show the required screening along Arterial Street and railroads.~~ Add a note to the General Site Notes stating, "The required screening along the Arterial Street and railroads shall be shown with the Jensen Park Estates Final Plat."
- 1.1.9 ~~Show all lots meeting the 110' minimum lot depth requirement, unless subdivider's waiver request is approved by the City Council.~~ Lot screening for Lots 1-5, Block 8, shall be screened so that 90% of the surface area of the vertical plane extending along the entire length of Lots 1-5, Block 8, from the ground elevation at the lot line to six (6) feet above the surface elevation of the street.

Thiellen stated that the applicant and staff have reached agreement on Condition #1.1.5 and #1.1.9.

The staff is opposed to waiving the street connection to the adjacent property required by Condition #1.1.1. Thiellen agreed that this is a requirement of the subdivision regulations; however, this requirement can be waived if there are any natural topographical features or manmade features prohibiting that connection. Thiellen showed the area on the map and pointed out that there are

existing wetlands in this location which are difficult to cross and which would require mitigation and buffer requirements, etc. They did attempt to work out an agreement with the city to mitigate the wetlands off-site, but that attempt was not successful. Imposing this street connection will cause the applicant to lose lots with no gain. There is no potential gain in terms of providing the street connection. It is all at the cost to the applicant with no benefit. In addition, the applicant believes that there is limited development potential on the north lot. The shape and size of that parcel makes it difficult to project a street through and get lots on both sides of the road. This applicant considered purchasing the adjacent property but it would have required seven waivers.

Esseks asked the applicant to show the other connectivity coming out of this development. What other linkages do you have with present or future developments? Thiellen referred to the site plan showing circulation/access at both 84th Street and Yankee Hill Road. There is no access to the north or to the northeast because there is an existing railroad.

Esseks inquired as to the current or projected land use to the northeast of the railroad right-of-way. Thiellen advised it to be commercial development and a substation. Directly north along 84th is currently an acreage. Jensen Park is to the south.

2. Bob Lewis with Jensen Park LLC, the developer and applicant, clarified that 84th Street is on the east side of the property, Yankee Hill Road is to the south, the new alignment of Yankee Hill Road will come around and tie into 91st Street, and they are bounded on the north by an existing railroad. The five-acre parcel directly north and south of the railroad is the parcel in question as far as making a street connection for future development. Hampton Development has been involved in hundreds of acres of development and thousands of lots in Lincoln and this is the first time they have come forward with a residential subdivision and asked for this waiver. The reason they are requesting the waiver is that it would require them to cross the wetlands to get to that 5.5 acre parcel, which also has a wetland. He does not believe there is enough developable land to justify putting a road at this location. Today, that parcel is a single family use with a driveway out to 84th Street. The applicant did contact the property owner to see if they had an interest in being part of this subdivision but did not get a response. It is difficult to justify running 200-300 ft. of road and utilities, and going back to the Corps of Engineers and revising the wetlands permit to serve a piece of ground that is about 3 acres without the wetlands, to gain maybe three or four lots.

With regard to Condition #1.1.9, Lewis clarified that they did agree with staff to maintain that lot depth at less than 110' and increase the landscape screening from 60% to 90% on those lots that do not meet that depth. This is because the Yankee Hill Road right-of-way was dedicated some time ago for the realignment. With the new subdivision requirements, staff wanted additional right-of-way. In lieu of taking property from the cemetery, they shifted all of Yankee Hill Road to the north, which took more property from this developer. So staff agreed to reduce the lot depth so that they do not have to revise the plat.

Staff questions

Carroll asked staff to discuss the proposed amendments. Brian Will of Planning staff confirmed that the staff does agree with the changes to Conditions #1.1.5 and #1.1.9. However, the staff continues to object to waiving the street connection to the north in Condition #1.1.1. The staff understands the circumstances described by the applicant, but it also relates to spacing of

driveway access points off 84th Street and proximity to the railroad crossing. He agreed that the subdivision ordinance does allow for exceptions under certain circumstances.

Dennis Bartels of Public Works agreed that it would be an expensive street crossing, but the property to the north is shown as residential in the Comprehensive Plan, and the only access would then be on 84th Street a relatively short distance from a railroad crossing. Train traffic could increase at any time. There is other wetlands mitigation on this property. It would be a lot easier for the city to say that the property should be developed residential if it had access back into this residential subdivision.

Bartels agreed that this is an awkward parcel because of the wetlands and the railroad, but eventually it is going to be developed. The concern is the fact that it is not connected may be used to justify some use of the land other than residential.

Esseks wondered if there is any history to guide the Commission on this waiver request? Bartels could not come up with a specific example, but the only access being a right-in, right-out driveway to 84th Street detracts from the commercial value as well. The status of the railroad crossing is unknown. If it is developed residential, we will want there to be full access to a median opening. Then they need street access back to the subdivision.

Esseks believes this five-acre parcel with the wetland is going to be isolated if the waiver is granted.

Ray Hill of Planning staff stated that there probably have been situations where access was not provided to adjacent property that did lead to a change of zoning to something different than what might have been shown in the Comprehensive Plan. The railroad line is not being used now because a contract between the power company and the railroad was cancelled; however, it could become active again.

Response by the Applicant

Lewis stated that they would not be requesting the waiver if this subdivision could abut lots directly to that parcel to the north. It becomes an issue because they have to cross the wetlands just to get to that property. Does a street connection guarantee that it is going to be residential? He does not know.

Esseks believes the developer is taking a risk of creating an isolated parcel and those people will want preferential treatment. Esseks believes they would be better off trying to make use of the land to the north to protect the parcels that are right across the wetlands.

Lewis is confident that whatever use goes there will not be in conflict. The applicant did send letters to all of the neighbors with a site plan suggesting that they would be willing to meet with anyone who was interested. There were no responses. The owners of the north parcel were also contacted to inquire whether they were interested in participating or selling and there was no response.

ANNEXATION NO. 04012

ACTION BY PLANNING COMMISSION:

February 15, 2006

Esseks moved approval, subject to an Annexation Agreement, seconded by Carroll and carried 5-0: Esseks, Sunderman, Carroll, Taylor and Carlson voting 'yes'; Krieser, Strand and Larson absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 04079

ACTION BY PLANNING COMMISSION:

February 15, 2006

Carroll moved approval, seconded by Esseks and carried 5-0: Esseks, Sunderman, Carroll, Taylor and Carlson voting 'yes'; Krieser, Strand and Larson absent. This is a recommendation to the City Council.

PRELIMINARY PLAT NO. 04030,

JENSEN PARK ESTATES.

ACTION BY PLANNING COMMISSION:

February 15, 2006

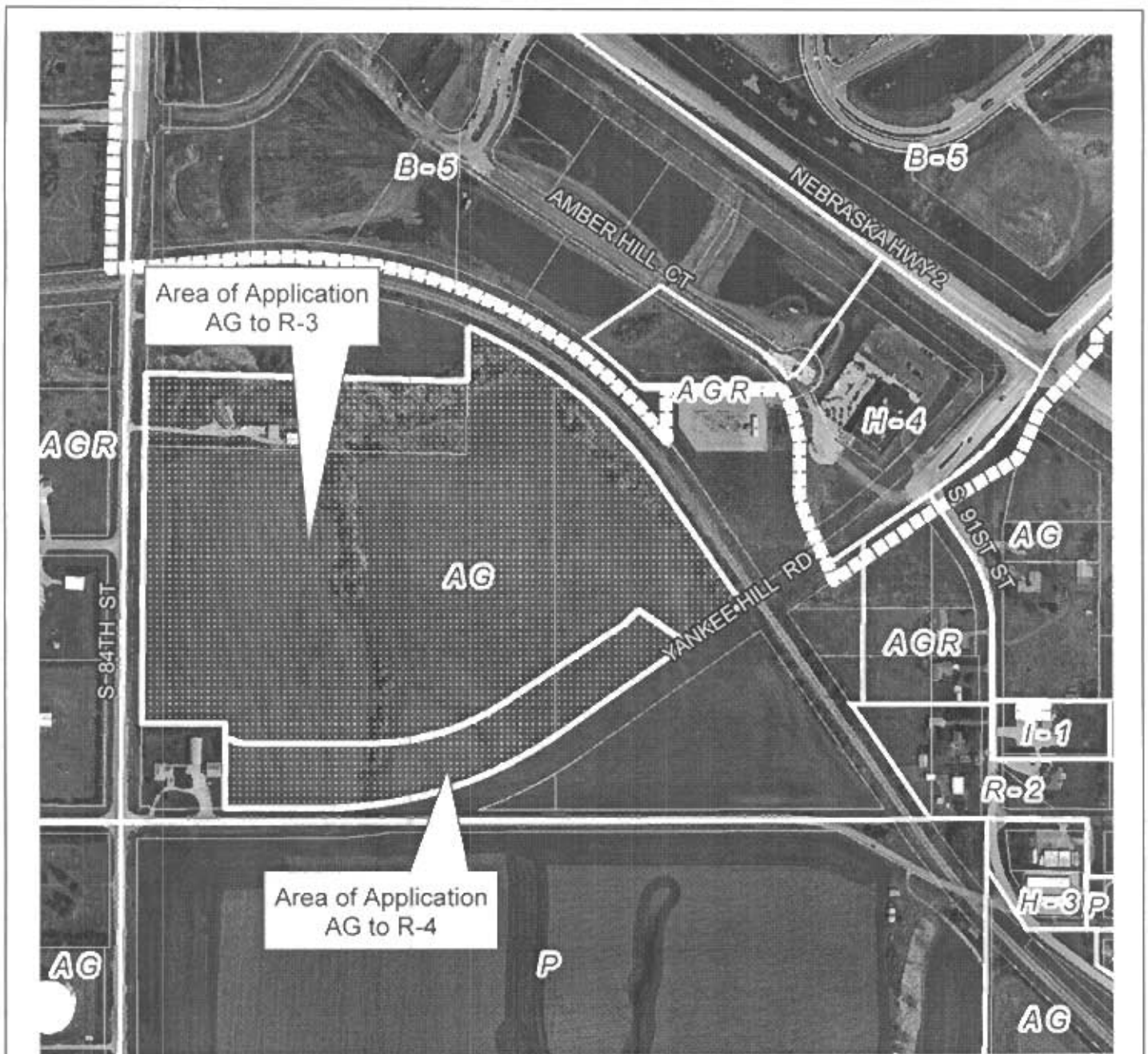
Esseks moved to approve the staff recommendation of conditional approval, with the amendments as requested by the applicant, seconded by Carroll.

Carroll stated that he does not like to isolate that lot, but looking at the topography, it is a very difficult lot. He does not want to have to fill the wetlands to build a road that might or might not be used in the future. He wishes the lot owner would have worked with the developer to be included to make a better design, but they chose not to. The topography alone tells you it is a difficult situation. He thinks the design is a good one. He does not like this, but at this point in time he thinks this should be approved without that street connection.

Esseks stated that he is persuaded by Carroll.

Carlson believes there is a need to look to the future. The proximity of the railroad tracks makes it difficult. The right-in, right-out is an issue, but who is to say they won't come back and say they need a median opening? This is difficult. He is a big fan of connectivity. Even if they acquired the property to the north, they would still be impacting the wetlands.

Motion for conditional approval, with the amendments requested by the applicant, carried 5-0: Esseks, Sunderman, Carroll, Taylor and Carlson voting 'yes'; Krieser, Strand and Larson absent. This is final action on the preliminary plat, unless appealed to the City Council, except that the approval of the waiver of the street connection is a recommendation to the City Council due to the staff recommendation of denial.



2005 aerial

Change of Zone #04079 Jensen Park Estates

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 23 T9N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction



Yankee Hill Rd.

010

Lincoln City - Lancaster County Planning De



NO SCALE

REVIS
JAN 19 2006
ENGINEERING DEPARTMENT

LEGEND

- AG TO R-3
- AG TO R-4

EXISTING YANKEE HILL ROAD

Jensen Park Estates
CHANGE OF ZONE EXHIBIT
Lincoln, Nebraska

Drawn By: JSR
Dwg. Zone Change
Date: 1/19/2006
Job#: 03-085

SHEET
1 OF 2



AG TO R-3 CHANGE OF ZONE LEGAL DESCRIPTION

LOT 110 IRREGULAR TRACT AND A PORTION OF LOT 118 IRREGULAR TRACT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 104, ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTH 84TH STREET; THENCE ON SAID EAST RIGHT-OF-WAY LINE FOR THE NEXT 2 COURSES, $N00^{\circ}55'21''E$, 808.98 FEET; THENCE $N01^{\circ}13'40''E$, 248.41 FEET TO THE NORTHWEST CORNER OF SAID LOT 110 IRREGULAR TRACT; THENCE ON THE NORTH LINE OF SAID LOT 110 IRREGULAR TRACT, $S88^{\circ}26'01''E$, 979.73 FEET TO THE NORTHEAST CORNER OF SAID LOT 110 IRREGULAR TRACT; THENCE $N00^{\circ}59'23''E$, 174.41 FEET TO THE SOUTH LINE OF THE OMAHA PUBLIC POWER DISTRICT TRACT; THENCE ON SAID SOUTH LINE FOR THE NEXT 2 COURSES, SOUTHEASTERLY ON A 1,550.44 FOOT RADIUS CURVE TO THE RIGHT, AN ARC LENGTH OF 768.06 FEET (LONG CHORD BEARS $S51^{\circ}10'48''E$, 760.23 FEET); THENCE $S34^{\circ}43'40''E$, 438.98 FEET TO THE NORTH RIGHT-OF-WAY LINE OF YANKEE HILL ROAD; THENCE ON SAID NORTH RIGHT-OF-WAY LINE, $S55^{\circ}22'56''W$, 199.14 FEET; THENCE $N55^{\circ}54'42''W$, 182.71 FEET; THENCE SOUTHWESTERLY ON A 150.00 FOOT RADIUS CURVE TO THE RIGHT, AN ARC LENGTH OF 59.80 FEET (LONG CHORD BEARS $S45^{\circ}30'35''W$, 59.41 FEET); THENCE $S56^{\circ}55'51''W$, 447.68 FEET; THENCE WESTERLY ON A 750.00 FOOT RADIUS CURVE TO THE RIGHT, AN ARC LENGTH OF 430.49 FEET (LONG CHORD BEARS $S73^{\circ}22'27''W$, 424.60 FEET); THENCE $S89^{\circ}49'04''W$, 371.80 FEET; THENCE WESTERLY ON A 150.00 FOOT RADIUS CURVE TO THE RIGHT, AN ARC LENGTH OF 77.92 FEET (LONG CHORD BEARS $N75^{\circ}18'05''W$, 77.04 FEET) TO THE EAST LINE OF LOT 104; THENCE ON SAID EAST LINE, $N00^{\circ}50'50''E$, 32.90 FEET TO THE NORTHEAST CORNER OF SAID LOT 104; THENCE ON THE NORTH LINE OF SAID LOT 104, $S89^{\circ}51'53''W$, 257.68 FEET TO THE POINT OF BEGINNING, CONTAINING 1,612,712.50 SQUARE FEET (37.02 ACRES) MORE OR LESS.

AG TO R-4 CHANGE OF ZONE LEGAL DESCRIPTION

A PORTION OF LOT 118 IRREGULAR TRACT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 104, ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF YANKEE HILL ROAD; THENCE ON THE EAST LINE OF SAID LOT 104, $N00^{\circ}50'50''E$, 215.12 FEET; THENCE EASTERLY ON A 150.00 FOOT RADIUS CURVE TO THE LEFT, AN ARC LENGTH OF 77.92 FEET (LONG CHORD BEARS $S75^{\circ}18'06''E$, 77.04 FEET); THENCE $N89^{\circ}49'04''E$, 371.80 FEET; THENCE EASTERLY ON A 750.00 FOOT RADIUS CURVE TO THE LEFT, AN ARC LENGTH OF 430.49 FEET (LONG CHORD BEARS $N73^{\circ}22'28''E$, 424.60 FEET); THENCE $N56^{\circ}55'51''E$, 447.68 FEET; THENCE NORTHEASTERLY ON A 150.00 FOOT RADIUS CURVE TO THE LEFT, AN ARC LENGTH OF 59.80 FEET (LONG CHORD BEARS $N45^{\circ}30'34''E$, 59.41 FEET); THENCE $S55^{\circ}54'42''E$, 182.71 FEET TO THE NORTH RIGHT-OF-WAY LINE OF YANKEE HILL ROAD; THENCE ON SAID NORTH RIGHT-OF-WAY LINE FOR THE NEXT 3 COURSES, $S55^{\circ}22'56''W$, 477.44 FEET; THENCE WESTERLY ON A 1,298.14 FOOT RADIUS CURVE TO THE RIGHT, AN ARC LENGTH OF 781.43 FEET (LONG CHORD BEARS $S72^{\circ}37'37''W$, 769.68 FEET); THENCE $S89^{\circ}52'18''W$, 297.73 FEET TO THE POINT OF BEGINNING, CONTAINING 259,046.93 SQUARE FEET (5.95 ACRES) MORE OR LESS.

